

L.R. 5.2

PROTECTION OF CERTAIN PERSONAL IDENTIFIERS

(a) **General rule.** Except as provided herein or as otherwise ordered by the court, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all papers filed with the court, including exhibits thereto, whether filed electronically or in paper:

(1) **Social Security numbers.** If an individual's social security number must be included in a paper, only the last four digits of that number should be used.

(2) **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(3) **Dates of birth.** If an individual's date of birth must be included in a paper, only the year should be used.

(4) **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

(b) **Sealing of unredacted papers.** A party wishing to file a paper containing the personal data identifiers listed above may file an unredacted paper under seal. This paper shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file.

(c) **Social Security cases.** In cases filed under the Social Security Act, 42 U.S.C. § 405(g), the plaintiff shall file both an unredacted complaint under seal and a redacted complaint, and shall serve the unredacted complaint upon the defendant.

(d) **Responsibility for redaction.** The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each paper for compliance with this rule.

Committee Comments

This new rule is in response to the E-Government Act of 2002 which requires redaction of personal identifiers in filings. The Committee modified this rule from a proposed model rule endorsed by the Judicial Conference. Subsection (c) involves a special rule requiring both an unredacted and a redacted copy of the Complaint to be filed in social security cases. The unredacted version must be filed under seal. This provision is proposed in response to the Government's concern that the filing of redacted copies only would omit critical information such as the complainant's social security number, birth date and other identifiers which are necessary for the Government to accurately identify the complainant.

L.R. 5.6

Filing of Documents by Electronic Means

Documents may be filed, signed and verified by electronic means to the extent and in the manner authorized by the CM/ECF User Manual approved by the court. A document filed by electronic means in compliance with this Local Rule constitutes a written paper for the purposes of these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

L.R. 5.7

Service of Documents by Electronic Means

Documents may be served through the court's transmission facilities by electronic means to the extent and in the manner authorized by the CM/ECF User Manual approved by the court. Transmission of the Notice of Electronic Filing through the court's transmission facilities constitutes service of the filed document upon each party in the case who is registered as a Filing User. Any other party or parties shall be served documents according to these Local Rules and either the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure.

Committee Comments:

The Committee has modeled proposed Local Rules 5.6 and 5.7 relating to electronic filing from the two enabling rules from the M.D. Pa. and believes that these two rules, with modifications, are the appropriate enabling rules to enact CM/ECF in this district. The Committee has omitted from the proposed rule a reference to a "Standing Order regarding Electronic Case Filing Policies and Procedures" because the Committee is uncertain that the court needs a standing order or desires one. However, the language can be readily inserted if the court believes such a General Order is necessary to adopt electronic filing.

In addition, the Committee added language to expressly state that the CM/ECF User Manual must be approved by the court. This language is proposed to alleviate a concern, expressed by some Committee members, that the CM/ECF User Manual would be enacted or modified without approval of the court.

The Committee also suggests adding a hyperlink to the CM/ECF User Manual for ease of accessibility once this manual is available online.

~~L.R. 8.2~~

~~CORPORATE AND BUSINESS ENTITY DISCLOSURE STATEMENT~~

~~————— To allow a Judge to identify potential conflicts of interest, any nongovernmental party to an action in this court shall file a statement identifying all its parent corporations and listing any publicly held company or investment fund that holds a 10% or more ownership interest in that party. A party shall file the statement with its initial pleading or responsive motion and shall supplement the statement within a reasonable time of any change in the information.~~

Committee Comments

The Committee proposes eliminating L.R. 8.2 in light of Fed.R.Civ.P. 7.1 which now provides that nongovernmental corporate parties must “file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.” Fed.R.Civ.P. 83 expressly provides that local rules “shall be consistent with – but not duplicative of” any federal statute. As currently written, L.R. 8.2 is broader than Fed.R.Civ.P. 7.1 in that it requires all “nongovernmental parties” rather than “nongovernmental corporate parties” to file such a statement. However, the Committee agrees that the broader requirement in the local rule is unnecessary and that the purpose of the local rule is served by Fed.R.Civ.P. 7.1. Accordingly, the Committee recommends that the local rule be deleted.

L.R. 10.1

Form of Responsive Pleadings

Except in pro se cases, a responsive pleading under Fed.R.Civ.P. 7(a) shall recite verbatim that paragraph of the pleading to which it is responsive, followed by the response.

Committee Comments

This proposed new rule is modeled after a L.R. 10 in the N.D.Ill. which requires each paragraph of a responsive pleading to recite verbatim the paragraph to which it is directed, followed by the response. The Committee believes that such a practice would enable the court and the parties to better reference the matters that are at issue in a case and focus on these issues. In addition, the Committee does not believe such a practice would unduly burden the bar in that most complaints are computer generated and can be readily furnished by e-mail to opposing counsel for their use in the manner contemplated by this rule.

The Committee further believes that an exception for *pro se* cases should exist to minimize the burden on opposing counsel who may find that such complaints are not always neatly set forth in paragraph form.

L.R. 83.4

Broadcasting and Publicity

At its March 1979 meeting the Judicial Conference of the United States amended its March 1962 resolution pertaining to courtroom photographs to read as follows:

“RESOLVED, That the Judicial Conference of the United States condemns the taking of photographs in the courtroom or its environs in connection with any judicial proceedings, and the broadcasting of judicial proceedings by radio, television, or other means, and considers such practices to be inconsistent with fair judicial procedure and that they ought not be permitted in any federal court. A judge may, however, permit the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.”

In the Northern District of Indiana the term “environs” means a courtroom, jury assembly room, grand jury room or clerk’s office and all common areas on the same floor. The taking of photographs, sound recording (except by the official court reporters in the performance of their duties), and broadcasting by radio, television, or other means within these areas, are prohibited. *Provided*, however, that incidental to investitive, ceremonial or naturalization proceedings, a judge of this court may permit the taking of photographs, broadcasting, televising, or recording.

Committee Comments

_____ This rule has been revised to more broadly define the term “environs” to include areas on the same floor as a grand jury room, jury assembly room and the clerk’s office. The revision was necessary to encompass the first floor of the Hammond building where no courtroom is located. The Committee discussed a general prohibition of broadcasting within federal buildings in the district but decided not to include such a broad statement as a courtesy to other tenants in the various buildings who may desire to hold press conferences (i.e., Congressman, United States Attorney’s Office, etc.). The Committee also revised the syntax of this rule for clarity and suggests renumbering the rule from 83.3 to 83.4 to comply with the uniform numbering convention for local rules prescribed by the Judicial Conference. In accordance with the uniform numbering convention, the rule was also given a new heading to make clear that the rule involves Broadcasting and Publicity within the courthouses.

L.R. 83.9

STUDENT PRACTICE RULE

(a) **Purpose.** Effective legal service for each person in the Northern District of Indiana, regardless of that person's ability to pay, is important to the directly affected person, to our court system, and to our whole citizenry. Law students, under supervision by a member of the bar of the District Court for the Northern District of Indiana, may staff legal aid clinics organized under city or county bar associations or accredited law schools, or which are funded pursuant to the Legal Services Corporation Act. Law students and graduates may participate in legal training programs organized in the offices of the United States Attorney or Federal Community Defender.

(b) **Procedure.** A member of the legal aid clinic, in representation of clients of such clinic, shall be authorized to advise such persons and to negotiate and appear in all courts of this District in criminal and civil matters on their behalf. These activities shall be conducted under the supervision of a member of the bar of the District Court for the Northern District of Indiana. Supervision by a member of this bar shall include the duty to examine and sign all pleadings filed on behalf of a client. Supervision shall not require that any such member of the bar be present in the room while a student or law graduate is advising a client or negotiating on his or her behalf nor that the supervisor be present in the courtroom during a student's or graduate's appearance except in criminal or juvenile cases carrying a penalty in excess of six (6) months. In no case shall any such student or graduate appear in any federal court of this District without first having received the approval of the judge of that court for the student's appearance. Where such permission has been granted, the judge of any court may suspend the trial proceedings at any stage where the judge in his or her sole discretion determines that such student's or graduate's representation is professionally inadequate and substantial justice so required. Law students or graduates serving in a United States Attorney's program may be authorized to perform comparable functions and duties as assigned by the United States Attorney subject to all the conditions and restrictions in this rule and the further restriction that they may not be appointed as Assistant United States Attorneys. Law students or graduates serving in a Federal Community Defender program may be authorized to perform comparable functions and duties as assigned by the Executive Director subject to all the conditions and restrictions in this rule.

(c) **Eligible Students.** Any student in an accredited law school who has received a passing grade in law school courses and has completed the freshman year shall be eligible to participate in a legal aid clinic if (1) the student meets the academic and moral standards established by the dean of that school, and (2) the school certifies to the court that the student has met the eligibility requirements of this rule.

Committee Comments

The Committee proposes an amendment to this rule to add the Federal Community Defender's office to the student practice rule. The Committee is advised that the practice is recognized by the Judicial Conference and will provide the Federal Community Defenders with resources as well as provide law students with practical experience.

L.Cr.R. 47.2

DISPOSITION OF POST CONVICTION PETITIONS AND MOTIONS BROUGHT PURSUANT TO 28 U.S.C. § 2254 AND § 2255 IN CASES INVOLVING PERSONS UNDER A SENTENCE OF CAPITAL PUNISHMENT

(a) Operation and Scope.

- (1) These rules shall apply to habeas corpus petitions brought pursuant to 28 U.S.C. § 2254 and § 2255 by petitioners under a sentence of capital punishment.
- (2) To the extent that these rules are inconsistent with any other local rules of this court, these rules shall apply.
- (3) The district judge to whom a case is assigned shall handle all matters pertaining to the case, including application for **certificate of appealability**, motion for stay of execution, consideration of the merits, second or successive petitions, remands from the Supreme Court of the United States or the United States Court of Appeals, and all incidental or collateral matters. This rule does not limit a district judge's discretion to designate a magistrate judge, pursuant to 28 U.S.C. § 636, to perform such duties as the district judge deems appropriate or for an emergency judge to act in the absence of the assigned district judge.
- (4) If a second or successive petition is filed in this court, the judge of this district to whom the second or successive petition is assigned ("second judge") shall communicate with the judge to whom earlier petitions were assigned ("first judge") and, if the first judge is not a judge of this court, also with the chief judge of the circuit.
- (5) Pursuant to the **Criminal Justice Act (18 U.S.C. § 3006A)** and 21 U.S.C. § 848(q), counsel shall be appointed for all prisoners in cases within the scope of these rules if the prisoner is not already represented by counsel, is financially unable to obtain representation, and requests that counsel be appointed.
- (6) If the district court grants or denies a stay of execution, it shall set forth the reasons for the decision.
- (7) The district judge to whom a case is assigned under these rules may make changes in procedures in any case when justice so required.

(b) Filing of a Petition.

- (1) Upon the filing of a petition within the scope of these rules, it shall be immediately assigned to a district judge under the usual practices of the court. The clerk shall immediately notify the judge of his or her assignment and shall thereafter promptly

notify, by telephone, the designated representatives of the Attorney General of the state in which the petition is filed. The Attorney General of Indiana has the obligation to keep the court informed as to the office and home telephone numbers of their designated representatives.

- (2) In all petitions within the scope of this rule, the petitioner or movant shall file, within 10 days of the day of filing of the petition or motion, a legible copy of the documents listed below. If a required document is not filed, the petitioner or movant shall state the reason for the omission. The required documents are:
 - (A) prior petitions, with docket numbers, filed by petitioner in any state or federal court challenging the conviction and sentence challenged in the current petition;
 - (B) a copy of, or a citation to, each state or federal court opinion, memorandum decision, order, transcript of oral statement of reasons, or judgment involving an issue presented in the petition; and
 - (C) such other documents as the district court may request.
- (3) A petitioner shall include in his or her petition all possible grounds for relief and the scheduled execution date. If an issue is raised in a second or successive petition that was not raised in a prior petition, the petitioner shall state the reasons why the issue was not raised and why relief should nonetheless be granted.
- (4) If an issue is raised that has not been exhausted in state court, was never raised in state court or was not raised on direct appeal in state court, the petitioner shall state the reasons why the issue was not raised and why relief should nonetheless be granted.
- (5) Upon the filing of a petition within the scope of these rules, the district court clerk shall immediately provide the petitioner with a copy of this rule and a copy of Circuit Rule 22 adopted by the United State Court of Appeals for the Seventh Circuit.
- (6) The clerk shall notify the clerk of the Court of Appeals of the filing of a petition within the scope of these rules, of significant events and the progress of the case, and of any subsequent appeal of such case. The clerk of this court shall send a copy of the final decision and any notice of appeal to the clerk of the state supreme court.

(c) Preliminary Consideration of Judge.

- (1) The district judge shall promptly examine a petition within the scope of these rules and, if appropriate, order the respondent to file an answer or other pleading or take such other action as the judge deems appropriate.
- (2) If the district judge determines, after examination of the petition, that the petition is a second or successive petition raising issues previously decided by a federal court, the district judge shall enter an appropriate order with a written finding so stating.

(d) Priority. The district judge shall give priority on his or her calendar to scheduling and

deciding cases within the scope of these rules.

(e) Motions for Immediate Stay of Execution.

- (1) No motion for a stay of execution shall be filed unless accompanied by a petition for relief under 28 U.S.C. § 2254 or § 2255 which comports with these rules. The movant shall immediately notify opposing counsel by telephone of the filing.
- (2) The movant shall attach to the motion for stay a legible copy of the documents listed in section (b)(2) of this rule, unless the documents have already been filed with the court. If the movant asserts that time does not permit the filing of a written motion, he or she shall deliver to the clerk a legible copy of the listed documents as soon as possible. If a required document is not filed, the movant shall state the reason for the omission.
- (3) If the state has no objection to the motion for stay, the district court shall enter an order staying the execution.
- (4) If the district court determines that the petition or motion is not frivolous and a stay is requested, it shall enter an order staying the execution.
- (5) Following a decision on the merits, if the district court issues a certificate of probable cause, it shall enter an order staying the execution pending appeal. If the district court denies a certificate of probable cause, it shall not enter an order staying the execution pending appeal and it shall dissolve any stay of execution previously granted to petitioner by the district court.
- (6) Except in the case of emergency motions, parties shall file motions with the district court clerk during the normal business hours of the clerk's office. The motion shall contain a brief account of the prior actions of any court or judge to which the motion or a substantially similar or related petition for relief has been submitted.

- (f) Clerk's List of Cases.** The district court clerk shall maintain a separate list of all cases within the scope of these rules.

Committee Comments

The Committee made a minor change in the wording of subsection (a)(3) so that it reads “Certificate of Appealability” rather than “Certificate of Probable Cause.” The change was made at the request of the *pro se* law clerks so that the rule conforms with the current terminology. In addition, two statutory references were modified and minor typographical changes were made as suggested by the *pro se* law clerks.